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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,180	03/15/2004	John R. Prybella	1611/A43	3208
41883	7590	03/31/2005	EXAMINER	
HAEMONETICS CORPORATION 400 WOOD ROAD BRAINTREE, MA 02184-9114			RAEVIS, ROBERT R	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/801,180

Applicant(s)

PRYBELLA ET AL.

Examiner

Robert R. Raevis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11-42 and 45-76 is/are pending in the application.
- 4a) Of the above claim(s) 53-59, 61, 62, 65, 67, 68 and 75 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8, 11-14, 16-39, 41, 42, 45-51 and 76 is/are allowed.
- 6) ☒ Claim(s) 15, 40, 52, 60, 63 is/are rejected.
- 7) ☒ Claim(s) 66 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/14/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Claims 15,40 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 15, isn't the "a gas vent" the same vent as in claim 1? Is Applicant claiming the same vent twice? (Double Inclusion)

As to claim 40, isn't the "a gas vent" the same vent as in claim 23? Is Applicant claiming the same vent twice? (Double Inclusion)

As to claim 59, "55" should read -58-. After all, otherwise "applying heat" would lack antecedent basis.

As to claim 70, this claim is mixing features of two embodiments. Should "69" read -55--?

Claims 52,60,63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunkin et al.

Hunkin teaches a method to take a sample, including (Figure 1): introducing fluid through a first port (lowermost portion of passage 21 as viewed in Figure 1) from a source; allowing the fluid to flow from the port towards a vented (via valve 16) sampling chamber while preventing backflow via valve 19, and withdrawing fluid from a second port (either the uppermost portion of passage 21 as viewed in Figure 1, or even the same lowermost portion of the passage 21).

Hunkin refers to a desire to obtain an "uncontaminated" (col. 3, lines 53-54) sample.

As to claim 52, it would have been obvious to employ a sterile chamber for sampling in Hunkin to assure obtaining an uncontaminated sample because Hunkin teaches the need to obtain an "uncontaminated" sample for a representative sample.

As to claim 63, the first liquid to enter the chamber causes gas to vent.

Claim 66 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claim 1, note was made of "the gas vent for venting gas *displaced by the sample*" (italics added, last two lines) with remaining claim limitations, as placing Robbin's membrane-type cap on either Pratt or Hunkin's samplers may provide for a vent, but not such ("venting gas displaced by the sample") a vent. In effect, the claimed system is limited to such that allows for performance of the claimed functions (eg. "for allowing fluid to flow" (on line 4), "for withdrawing fluid from" (on line 3 from last)) with the "gas vent with a filter" (line 2 from last) in place in the system.

As to claims 23 and 76, note was made of "the gas vent for venting gas *displaced by the sample*" (italics added, last two lines) with remaining claim limitations.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 6:30am to 4pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*RR*  
*RAEVI*